

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Jennifer Steingasser, Deputy Director

DATE: September 14, 2012

SUBJECT: Extension Request – PUD Case 02-38C – Waterfront Station

Applicants	425 M Street, LLC and the District of Columbia
Address	425 M Street, SW and “4 th and K” Streets, SW (the northeast parcel of the PUD)
Ward / ANC	Ward 6; ANC 6D
Project Summary	Total of eight mixed use buildings; Four approved and built or under construction across the middle of the site; Two buildings to the north and two to the south have received First Stage PUD approval; Applicants seek time extension for northeast and southwest buildings.
Date of Original First Stage Order Issuance	January 25, 2008
Date of Original First Stage Order Expiration (northeast, northwest and southwest buildings)	January 25, 2013
Date of Original First Stage Order Expiration (southeast building)	April 15, 2015 (five years after Safeway vacated old bld.)
Requested Expiration for First Stage Order (northeast and southwest buildings*)	April 15, 2015

*Applicant does not request a time extension for the northwest building. A Second Stage application is anticipated in the coming months.

EVALUATION OF THE EXTENSION REQUEST

Section 2408.10 allows for the extension of a PUD for “good cause” shown upon the filing of a written request by the applicant before the expiration of the approval, provided that the Zoning Commission determines that the following requirements are met:

- (a) **The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond.**

The application submitted to the Zoning Commission is dated June 21, 2012 and has been in the public record since filing. Also, the application materials indicate that the application was served to all parties.

- (b) There is no substantial change in any of the material facts upon which the Zoning Commission based its original approval of the planned unit development that would undermine the commission's justification for approving the original PUD.**

There have been no substantial changes to the facts upon which the Commission based its original decision. The Comprehensive Plan and Zoning Regulations that govern the site and the approved project are unchanged. There have been no substantial changes to the neighborhood immediately surrounding the proposed project.

- (c) The applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in § 2408.11.**

Section 2408.11 sets out the conditions of good cause as:

- (a) An inability to obtain sufficient project financing for the planned unit development, following an applicant's diligent good faith efforts to obtain such financing, because of changes in economic and market conditions beyond the applicant's reasonable control;**
- (b) An inability to secure all required governmental agency approvals for a planned unit development by the expiration date of the planned unit development order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or**
- (c) The existence of pending litigation or such other condition, circumstance or factor beyond the applicant's reasonable control which renders the applicant unable to comply with the time limits of the planned unit development order.**

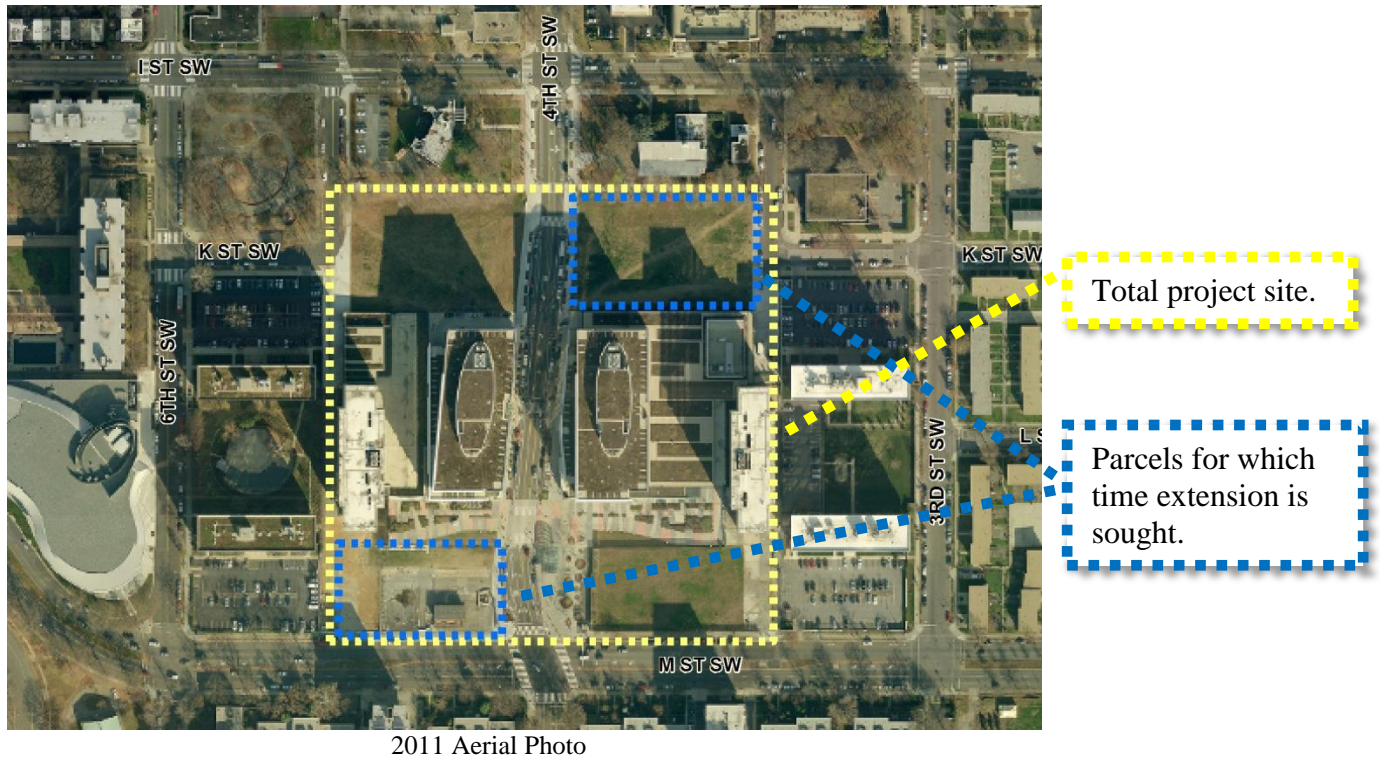
The application demonstrates that office construction cannot be financed without significant pre-leasing of the building, and that the leasing efforts to date have not borne results. This is due, in part, to the increase in office vacancy rates in the District in recent years. The applicant for the southwest parcel, therefore, seeks additional time to attract tenants for the office building proposed for that site.

The District of Columbia is the applicant for the northeast parcel, where a residential building would be located. The District cites delays caused by the transition of ownership from the Redevelopment Land Agency Revitalization Corporation (RLARC) to the District, including using limited resources to focus on the successful conclusion of the first phase of development and the opening of 4th Street. The applicant also states that the national real estate downturn affected the ability to finance construction, especially because of the significant affordable component to the project.

The Office of Planning finds that the application has demonstrated that there is good cause for a timeline extension and recommends approval. Both applicants seek a time extension to April 15,

2015, which is the date the southeast parcel approval would expire. The application states that “it is more efficient and useful for the First-Stage PUDs to all expire on the same date,” rather than on dates a few months apart. OP does not object to that request.

PHOTO OF SITE



JS/mrj
Matt Jesick, Project Manager